

IN THE HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

CM No. 8567/2025 in
Arb App. No. 11/2025

UT of JK & Anr. ...Petitioner(s)/Appellant(s)

Through: Mr. Abdul Rashid Malik, Sr. AAG with Ms. Rahella Khan, AC

Vs.

M/s Gulati Metals & Alloys and Anr. ...Respondent(s)

Through: Mr. Karman Singh Johal, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJEEV KUMAR, JUDGE

HON'BLE MS JUSTICE SINDHU SHARMA, JUDGE

ORDER

19.12.2025

Sanjeev Kumar, J

CM No. 8567/2025

1. An appeal filed by the Union Territory of Jammu & Kashmir and another in terms of Section 37 of the Arbitration and Conciliation Act 1996 [“the Act”] seeking to challenge an order dated 18th August 2025 passed by the Court of learned Additional District Judge, Srinagar [“the trial court”] in Arbitration Case No 2402/2025 is delayed by 22 days.

2. Notice.

3. Mr. Karman Singh Johal, learned counsel waives notice on behalf of respondents.

4. Having heard learned counsel for the parties and regard being had to the averments made in the application, the delay of 22 days in filing the appeal is condoned.

5. CM is disposed of.

Arb App. No 11/2025

6. The appeal is directed against the impugned order dated 18th August 2025 passed by the trial court in Arbitration Case No. 2402/2025, whereby a

petition filed by the appellants under Section 34 of the Act challenging Arbitral Award dated 07-08-2021 has been dismissed.

7. The impugned judgment is assailed by the appellants primarily on the ground that the trial court has not appreciated the legal position that once it lacked territorial jurisdiction to entertain the petition under Section 34 of the Act, it had no jurisdiction to enter upon the merits of the controversy and give its findings.

8. It is argued by Mr. Malik, learned Sr. AAG appearing for the appellants, that once the trial court came to the conclusion that the petition filed by the appellants under Section 34 of the Act was not maintainable before him, he lacked jurisdiction to make any observations or return any finding of facts on merits of the case.

9. Learned counsel appearing for the respondent could not seriously contest the argument made by the counsel appearing for the appellants.

10. Having heard the counsel for the parties and perused the material on record, we are of the considered opinion that the observations made and the findings of fact returned by the trial court on merits of the controversy are without jurisdiction. This is so because the trial court has declined to entertain the petition under Section 34 filed by the appellants on the ground that it lacks territorial jurisdiction to do so. The trial court has returned a clear finding that the arbitral award dated 7th August 2021 passed by the Chairman, MSEFC, Jammu was assailable by way of a petition under Section 34 of the Act before a Court at Jammu. The operative portion of the order impugned passed by the trial court, i.e., para 14 reads thus:

“What has been discussed herein above and in light of the provisions of law governing the subject, the petition in hand is found to be barred by law under section 34(3) and 42 of the J&K Arbitration & Conciliation Act, 1997 and against the provisions of section 19 of the Micro Small & Medium Enterprises Development Act 2006, so the petition merits dismissal as being not maintainable. Accordingly, the petition is dismissed. All the interim directions shall stand vacated. File be consigned to records after completion.”

11. In view of the trial court coming to the conclusion that it lacked territorial jurisdiction to entertain the petition under Section 34 of the Act, it was not within its jurisdiction to say anything on the merits of the controversy.

12. In view of the aforesaid, we find merit in the submission made by the learned Sr. AAG appearing for the appellants.

13. This appeal is accordingly disposed of by providing that nothing said in the impugned order dated 18th August 2025 by the trial court shall be taken as an expression of opinion on the merits of the controversy. The petition under Section 34 filed by the appellants shall be deemed to have been dismissed for want of jurisdiction and, therefore, the observations made and the findings of facts, if any, returned on the merits of the controversy shall neither prejudice nor bind the parties.

14. The order dated 18th August 2025 passed by the trial court is, thus, upheld with the modification aforesaid.

(SINDHU SHARMA)
JUDGE

(SANJEEV KUMAR)
JUDGE

SRINAGAR:
19.12.2025
Altaf

